

February 22, 2024

VIA ECF

The Honorable Lorna G. Schofield
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Harrington Global Opportunity Fund, Limited v. BofA Securities, Inc., et al.* No. 1:21-cv-00761 (LGS) (S.D.N.Y.)

Dear Judge Schofield:

Pursuant to the Court's February 1, 2024 Fourth Amended Civil Case Management Plan and Scheduling Order [ECF No. 188] and Rule III.D.3 of the Court's Individual Rules, the parties respectfully submit this joint status letter.

(a) What discovery has taken place

The parties began engaging in discovery in February 2022 after the Court denied Defendants' motion to dismiss Plaintiff's Amended Complaint (the "AC"). The parties propounded initial requests for production in April 2022; served responses and objections in June 2022; and, in multiple productions in September through November 2022, produced ESI and trading data. On September 28, 2023, the Court denied Defendants' motion to dismiss Plaintiff's Second Amended Complaint (the "SAC"), which alleges unlawful spoofing by Defendants and/or their customers. Defendants thus agreed to produce data reflecting customer trading.

To date, the total volume of each party's productions are as follows: Plaintiff has produced 7,993 documents; Defendants TD Securities, Inc. and TD Securities (USA) LLC (together, "TD") have produced 783 documents; Defendants BofA Securities, Inc. and Merrill Lynch Canada Inc. (together, "Merrill") have produced 403 documents; and Defendant CIBC World Markets, Inc. ("CIBC") has produced 336 documents.

(b) The procedural history of the case to date

Plaintiff filed its initial complaint [ECF No. 102] on January 27, 2021. Plaintiff amended as of right and filed the AC [ECF No. 56] on April 22, 2021. Defendants (along with other defendants that have since been dismissed) filed a motion to dismiss the AC on June 7, 2021. [ECF No. 72.] On February 9, 2022, this Court issued an Opinion and Order granting in part and denying in part the motion to dismiss. [ECF No. 88.] As noted above, the parties engaged in discovery starting in February 2022. On November 16, 2022, Plaintiff sought leave to file the SAC, adding allegations related to customer trading. [ECF No. 125.] On December 12, 2022, with Defendants' consent, this Court granted Plaintiff leave to file the SAC. [ECF No. 132.] On December 19, 2022, Plaintiff filed the SAC. On January 27, 2023, Defendants filed a motion to

dismiss the SAC. [ECF No. 135.] On September 28, 2023, the Court issued an Opinion and Order denying Defendants' Motion to Dismiss the SAC. [ECF No. 147.] On January 26, 2024, Plaintiff moved for an extension of the then-existing February 16, 2024 fact discovery deadline and a commensurate extension of the expert discovery deadline. [ECF No. 186.] On February 1, 2024, the Court granted Plaintiff's request and issued a scheduling order under which all fact discovery, including discovery related to customer trading, is to be completed no later than May 10, 2024. [ECF No. 188.] The Court also ordered that, "by March 1, 2024, Defendants shall file a letter certifying that they have substantially completed their document productions, including compliance with the January 10, 2024, Order." [ECF No. 189.]

(c) The parties' plan to ensure they meet the Court ordered discovery deadlines

The parties are meeting and conferring about their document productions and interrogatory responses. The parties are working on deposition scheduling to ensure that they will be completed by May 10.

Respectfully submitted,

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